THE HONOURABLE SRI JUSTICE B. SESHASAYANA REDDY

W.P.No.10593 OF 2006

Date: 30.05.2006

Between:

Y. Tholisamma and 2 others

…. Petitioners

And

1. The Superintendent of Police, Kurnool
District, Kurnool.

2. The Sub. Inspector of Police,
Uyyalawada Police Station, Uyyalawada Mandal,
Kurnool District.

…. Respondents

ORDER:

This writ petition has been filed by the petitioners, who are three in number, assail the inaction of the respondents in giving appropriate assistance in implementing the decree of perpetual injunction passed by the Civil Court in O.S.No.195 of 2004 on the file of Junior Civil Judge, Koilakuntla.

With the consent of both the parties, the writ petition is taken up for disposal at the stage of admission.

The first petitioner is the owner of the lands bearing Survey Nos.317 admeasuring Ac.7.10 cents, 203-Ac.5.22cents, 211-Ac.0.58 cents, 217-Ac.2.67cents, 622-Ac.11.66cents situate at Pedda Yemmanur village and Mandal, Uyyalavawada Mandal, Kurnool District. The petitioners have filed O.S.No.195 of 2004 on the file of Junior Civil Judge, Koilakuntla for permanent injunction and the said suit came to be decreed on 02.01.2006. When the judgment debtors in O.S.No.195 of 2004 started interfering with their possession, they approached the police and presented a report dated 17.05.2006, seeking necessary assistance for implementing the decree passed in O.S.No.195 of 2004. Aggrieved by the inaction of the second respondent, the petitioners have chosen to approach this Court invoking the jurisdiction under Article 226 of the Constitution of India.

A Division Bench of this court in **Satyanarayana Tiwari v. S.H.O., P.S. Santhoshnagar, Hyderabad i.e. Inspector of Police, P.S. Santhoshnagar, Hyderabad and others**, dealt with an identical issues and held as follows:

> *"Section 151 C.P.C. reserves the inherent power of the Court. Article 226 of the Constitution goes a step further and vests extraordinary jurisdiction in the High Court of a State to issue not only a writ mandamus but also appropriate writs, directions or orders for the enforcement of any of the rights conferred by Part III and for any other purpose. As held by the Supreme Court in Calcutta Gas Company (Prop.) Ltd., v. State of W.B. (A.I.R. 1962 S.C. 1044) 'any other purpose' means 'the enforcement of any legal right and the performance of any legal duty'. A legal right, of course, means any legally enforceable right. Nothing more can be a higher purpose than the enforcement or the orders of the civil Court and that of the High Court, which confirms or recognizes the rights of a party. By any interpretation of the provisions of C.P.C. the power of the High Court under Art.226 of the Constitution of India to enforce its own orders or the orders of the Civil Court cannot be curtailed. As observed by the Supreme Court in T.C. Basappa v. T. Nagappa (A.I.R. 1954 S.C.440), the High Court, in issuing directions, orders and writs under Art.226 can travel beyond the contents of the writs which are normally issued as writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari, provided, the broad and fundamental principles that regulate the exercise of jurisdiction in the matter of granting such writs in English law, are not transgressed. The Supreme Court also observed that the very language of Article 226 makes it clear that in the exercise of power under Art.226, out High Courts need not feel oppressed by the procedural technicalities of the English writs. The article empowers the High Court to grant*

appropriate relief and also to modify the form of relief according to the exigencies of each case without being obsessed by the limitations of the prerogative writs.

In Satyanarayana v. Mallikarjun (AIR 1960 S.C.137) the Supreme Court reiterated this principle and went a step further that for doing justice between the parties the High Court has absolute jurisdiction to issue such directions and orders as it may deem fit to do justice between the parties conferred on the High Court and exercisable by it in the matter of issuing writs are (1) that the power is to be exercised throughout the territories in relation to which it exercises jurisdiction and (2) territories over which the respective High Courts exercise jurisdiction. None of these limitations come in the way of the High Court issuing appropriate directions to further secure the right determined and recognized by the civil Court. The power, which a civil Court has under Sec.151 C.P.C., the High Court has in much larger measure under Art.226 of the Constitution. We have, therefore, no hesitation in concluding that this Court has ample jurisdiction to issue a writ or direction to all the authorities including the police within the State to enforce the orders of the civil Court as confirmed by the High Court in a Civil Revision Petition and maintain the Rule of law. The police authorities are therefore bound to give all assistance to the appellant to enforce and see that the orders of this Court as confirmed in C.R.P.No.3258/81 are implemented and any enquiry or report of any other authority, revenue or police, cannot be put as an excuse for not rendering the required help to the appellant to maintain his possession. This order will be subject only to the final orders of the civil Court in O.S.377 of 80. ....."

In view of the said proposition of law, I deem it appropriate to direct the respondents to give necessary assistance to the petitioners in giving effect to for the decree passed in O.S.No.195 of 2004.

Accordingly, the writ petition is disposed of. No costs.

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B. SESHASAYANA REDDY, J

Date: 30.05.2006

Note: Issue C.C. in one week.

B.O./Ksn